

UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

In re:

CYNTHIA McCONNELL,  
WILSENE MOODY, and O & W  
MOODY, LTD., CO., an Arkansas corporation,

Respondents.

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Docket No.

12-0613

COMPLAINT

There is reason to believe that the respondents named herein have violated either the Horse Protection Act, as amended (15 U.S.C. § 1821 et seq.) (the "Act") or an order of disqualification issued under the Act, or both. Therefore, the Administrator of the Animal and Plant Health Inspection Service issues this complaint alleging the following:

JURISDICTIONAL ALLEGATIONS

1. Respondent Cynthia McConnell is an individual whose mailing address is 125 E. Valleywood Drive, Collierville, Tennessee 38017 and does business as Whitter Stables.
2. Respondent Wilsene Moody is an individual whose mailing address is 1355 N. Central Ave., Batesville, Arkansas 72501-3208.
3. Respondent O & W Moody, Ltd., Co. is an Arkansas corporation whose mailing address is 1355 N. Central Ave., Batesville, Arkansas 72501-3208, and whose agent for service of process is Wilsene Moody, located at the same address.
4. Respondent Cynthia McConnell was disqualified for two years, beginning October 30, 2006 following a mandate from the United States Court of Appeals for the Sixth Circuit that denied a petition for rehearing, from showing, exhibiting, or entering any horse in any horse show, or from otherwise participating in such events, pursuant to a Decision and Order



issued in HPA Docket No. 99-0034 (In re Jackie McConnell, Cynthia McConnell, and Whitter Stables, 2005 WL 1524664, 33). The Order states:

“Cynthia McConnell is disqualified for a period of 2 years from showing, exhibiting, or entering any horse, directly or indirectly through any agent, employee, or device, and from managing, judging, or otherwise participating in any horse show, horse exhibition, horse sale, or horse auction.”

5. Between August 29, 2007 and October 19, 2007, Cynthia McConnell, doing business as Whitter Stables, violated her Federal disqualification by entering and or exhibiting horses in the following horse shows and exhibitions, or otherwise participated in such horse shows and exhibitions on or about the dates set forth below:

**69<sup>th</sup> Annual Tennessee Walking Horse National Celebration**  
Shelbyville, Tennessee  
August 29-September 1, 2007

**The 29<sup>th</sup> Annual International Grand Championship Performance Walking Horse Show**  
Murfeesboro, Tennessee  
September 27-29, 2007

**The 2007 Purchase Area Charity Horse Show**  
Martin, Tennessee  
October 19, 2007

6. On or about September 1, 2007, Cynthia McConnell entered for the purpose of showing or exhibiting, the horse “Moody Star,” as entry number 284 in class number 166 at the 69<sup>th</sup> Annual Tennessee Walking Horse Celebration in Shelbyville, Tennessee.

7. On or about September 1, 2007, Wilsene Moody and O&W Moody, Ltd., Co. entered and allowed the entry of “Moody Star” in the 69<sup>th</sup> Annual Tennessee Walking Horse National Celebration, in Shelbyville, Tennessee, for the purpose of exhibiting the horse as entry number 284 in class number 166.



### ALLEGED FAILURE TO OBEY ORDER OF DISQUALIFICATION

8. On or about August 29- September 1, 2007, respondent Cynthia McConnell knowingly violated the Order in HPA Docket No. 99-0034 by entering at least six horses at the 69<sup>th</sup> Annual Tennessee Walking Horse Celebration.

9. On or about September 27-29, 2007, respondent Cynthia McConnell knowingly violated the Order in HPA Docket No. 99-0034 by entering for the purpose of exhibiting or showing at least nineteen horses in twenty-two classes at the 29<sup>th</sup> Annual International Grand Championship Performance Walking Horse Show.

10. On or about October 19, 2007, respondent Cynthia McConnell knowingly violated the Order in HPA Docket No. 99-0034 by entering for the purpose of exhibiting or showing at least eleven horses at the 2007 Purchase Area Charity Horse Show.

### ALLEGED VIOLATIONS OF THE ACT AND REGULATIONS

11. On or about September 1, 2007, Cynthia McConnell entered the horse "Moody Star," for the purpose of showing or exhibiting the horse at the 69<sup>th</sup> Annual Tennessee Walking Horse Celebration in Shelbyville, Tennessee while the horse was sore, in violation of section 5(2)(B) of the Act (15 U.S.C. §1824(2)(B)).

12. On or about September 1, 2007, Wilsene Moody and O&W Moody, Ltd., Co. entered and allowed the entry of "Moody Star" in the 69<sup>th</sup> Annual Tennessee Walking Horse National Celebration, in Shelbyville, Tennessee, while the horse was sore, in violation of section 5(2)(D) of the Act (15 U.S.C. §1824(2)(D)).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondents have in fact violated the Act and an Order of disqualification under the Act, this



complaint shall be served upon the respondents. The respondents shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 et seq.). Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

The Animal and Plant Health Inspection Service requests:

1. That unless the respondents fail to file an answer within the time allowed therefor, or file an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and
2. That such order or order be issued as are authorized by the Act and warranted under the circumstances, including disqualifying the respondent from showing horses and assessing civil penalties against the respondents in accordance with sections 6(b) and 6(c) of the Act (15 U.S.C. §1825(b), (c)).

Done at Washington, D.C.  
this 30<sup>th</sup> day of July, 2012

*Kevin Shea*  
*Acting* Administrator  
Animal and Plant Health Inspection Service

BRIAN HILL  
Attorney for Complainant  
Office of the General Counsel  
United States Department of Agriculture  
Washington, D.C. 20250-1400  
Telephone (202) 720-9237





**United States  
Department of  
Agriculture**

**Office of  
Administrative  
Law Judges**

**Hearing Clerk**

**Room 1031  
South Building**

**1400 Independence  
Avenue SW**

**Washington, DC  
20250-9200**

**(202) 720-4443  
(202) 720-9776 fax**

CERTIFIED RECEIPT REQUESTED

August 30, 2012

Cynthia McConnell  
d/b/a Whitter Stables  
125 E. Valleywood Drive  
Collierville, TN 38017

Wilsene Moody  
1355 N. Central Ave.  
Batesville, AR 72501-3208

O&W Moody, Ltd., Co.,  
an Arkansas corporation  
c/o Wilsene Moody  
1355 N. Central Ave.  
Batesville, AR 72501-3208

Dear Respondents:

Subject: **CYNTHIA McCONNELL, WILSENE MOODY, and O&W MOODY, LTD., CO., an Arkansas corporation, Respondents**  
Docket No. 12-0613

Enclosed is a copy of the Complaint, filed under the Horse Protection Act. Also enclosed is a copy of the Rules of Practice which govern the conduct of these proceedings.

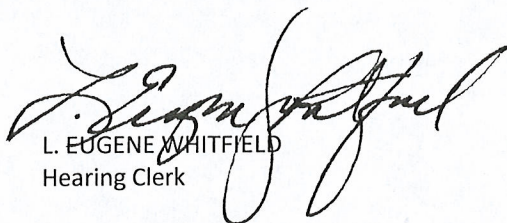
The rules specify that you may represent yourself or obtain legal counsel. **You have 20 days from receipt of this letter to file with the Hearing Clerk an original and five (5) copies of your written and signed Answer to the Complaint.** Your Answer must set forth any defense you wish to claim, and must admit or deny each allegation as set forth in the Complaint. In addition, your Answer may include a request for an oral hearing. Failure to file an Answer or filing an Answer which does not deny the material allegations of the Complaint shall constitute an admission of those allegations and waive your right to an oral hearing. If a hearing is required, it will be heard and decided by an Administrative Law Judge on the basis of exhibits received in evidence and sworn testimony subject to cross-examination.

It is your responsibility to notify this office of any change in address or telephone numbers. Failure to do so may result in a judgment being entered against you without your knowledge. Your answer, as well as any pleadings or requests regarding this proceeding should be submitted in original and five to the Hearing Clerk, OALJ, Room 1031, South Building, United States Department of Agriculture, Washington, D.C. 20250-9200.



Any questions regarding the potential settlement of this case should be directed to the attorney whose name and telephone number appears on the last page of the enclosed Complaint.

Sincerely,



L. EUGENE WHITFIELD  
Hearing Clerk

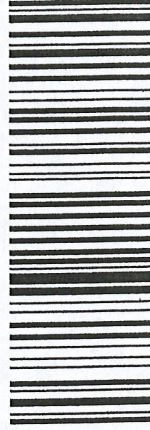
Enclosures

cc: Brian Hill, OGC  
Jo Brown, APHIS

fccangeles/8/30/2012



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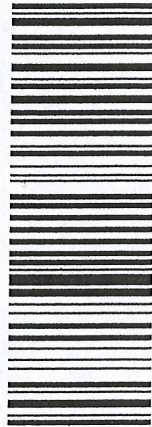
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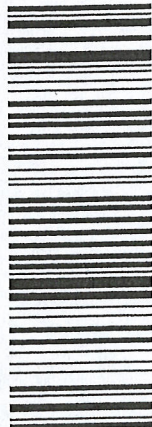
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125 E. VALLEYWOOD DR.  
COLLIERVILLE, TN 38017

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